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6 **BEFORE THE**
7 **DEPARTMENT OF CONSUMER AFFAIRS**
8 **THE SUCCESSOR TO THE BOARD OF REGISTERED NURSING**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-420

11 **KARA M. ROBERTS**

12 4030 Evening Trail
13 Spring, TX 77388

DEFAULT DECISION AND ORDER

14 Registered Nurse License No. 589388

[Gov. Code, §11520]

15 Respondent.

16 **FINDINGS OF FACT**

17 1. On or about December 30, 2011, Complainant Louise R. Bailey, M.Ed., RN, in her
18 official capacity as the Executive Officer of the Board of Registered Nursing, filed Accusation
19 No. 2012-420 against Kara M. Roberts ("Respondent") before the Department of Consumer
Affairs. (Accusation attached as **Exhibit A.**)

20 2. On or about October 15, 2001, the Board of Registered Nursing ("Board") issued
21 Registered Nurse License No. 589388 to Respondent. The Registered Nurse License expired on
22 August 31, 2007, and has not been renewed.

23 3. On or about December 30, 2011, Respondent was served by Certified and First Class
24 Mail copies of the Accusation No. 2012-420, Statement to Respondent, Notice of Defense,
25 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
26 and 11507.7) at Respondent's address of record which, pursuant to California Code of
27
28

1 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board,
2 which was and is:

3 4030 Evening Trail
4 Spring, TX 77388.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. On or about January 17, 2012, the aforementioned documents were returned by the
9 U.S. Postal Service marked "Undeliverable as Addressed No Forwarding Order on File." The
10 address on the documents was the same as the address on file with the Board. Respondent failed
11 to maintain an updated address with the Board and the Board has made attempts to serve the
12 Respondent at the address on file. Respondent has not made herself available for service and
13 therefore, has not availed herself of her right to file a notice of defense and appear at hearing.

14 6. Government Code section 11506 states, in pertinent part:

15 (c) The respondent shall be entitled to a hearing on the merits if the respondent
16 files a notice of defense, and the notice shall be deemed a specific denial of all parts
17 of the accusation not expressly admitted. Failure to file a notice of defense shall
18 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
19 may nevertheless grant a hearing.

20 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
21 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
22 420.

23 8. California Government Code section 11520 states, in pertinent part:

24 (a) If the respondent either fails to file a notice of defense or to appear at the
25 hearing, the agency may take action based upon the respondent's express admissions
26 or upon other evidence and affidavits may be used as evidence without any notice to
27 respondent.

28 9. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on

1 file at the Board's offices regarding the allegations contained in Accusation No. 2012-420, finds
2 that the charges and allegations in Accusation No. 2012-420, are separately and severally, found
3 to be true and correct by clear and convincing evidence.

4 10. Taking official notice of its own internal records, pursuant to Business and
5 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
6 and Enforcement is \$527.50 as of January 27, 2012.

7 **DETERMINATION OF ISSUES**

8 1. Based on the foregoing findings of fact, Respondent Kara M. Roberts has subjected
9 her Registered Nurse License No. 589388 to discipline.

10 2. The agency has jurisdiction to adjudicate this case by default.

11 3. The Department of Consumer Affairs is authorized to revoke Respondent's
12 Registered Nurse License based upon the following violations alleged in the Accusation which
13 are supported by the evidence contained in the Default Decision Evidence Packet in this case.

14 a. Respondent subjected her license to disciplinary action under section 2761,
15 subdivision (a)(4) of the Business and Professions Code in that on or about February 11, 2003,
16 Respondent's permanent certificate to practice professional nursing was revoked by the Board of
17 Nurse Examiners for the State of Texas ("Texas Board") for misappropriating Morphine and
18 Morphine Sulfate and failing to properly document administration on several occasions. The
19 conduct is described in more particularity in Accusation No. 2012-420, inclusive, and herein
20 incorporated by reference.

21 b. Respondent subjected her license to disciplinary action under section 2761,
22 subdivision (a) of the Business and Professions Code in that Respondent committed
23 unprofessional conduct when she misappropriated and falsified hospital and patient records in
24 order to obtain Morphine and Morphine Sulfate. The conduct is described in more particularity in
25 Accusation No. 2012-420, inclusive, and herein incorporated by reference.

26 c. Respondent subjected her license to disciplinary action under section 2762,
27 subdivisions (a) and (e) of the Code in that on several occasions, Respondent misappropriated
28 Morphine and Morphine Sulfate by failing to accurately document administration and wastage of

1 the drug in patient and hospital records. The conduct is described in more particularity in
2 Accusation No. 2012-420, inclusive, and herein incorporated by reference.

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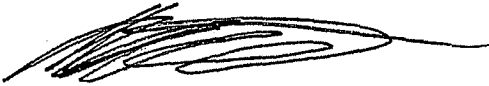
ORDER

IT IS SO ORDERED that Registered Nurse License No. 589388, heretofore issued to Respondent Kara M. Roberts, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 6, 2012.

It is so ORDERED July 6, 2012.



FOR THE DEPARTMENT OF CONSUMER
AFFAIRS
THE SUCCESSOR TO THE BOARD OF
REGISTERED NURSING

60703214.DOC
DOJ Matter ID:LA2011505848

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. *2012-420*

12 **KARA M. ROBERTS**

13 4030 Evening Trail
14 Spring, TX 77388

15 Registered Nurse License No. 589388

16 Respondent.

A C C U S A T I O N

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about October 15, 2001, the Board of Registered Nursing issued Registered
23 Nurse License Number 589388 to Kara M. Roberts ("Respondent"). The Registered Nurse
24 License expired on August 31, 2007, and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code ("Code") unless otherwise indicated.

1 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
2 any licensee, including a licensee holding a temporary or an inactive license, for any reason
3 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
5 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
6 licensee or to render a decision imposing discipline on the license.

7 6. Section 118 subdivision (b) of the Code grants the Board jurisdiction over suspended,
8 expired, forfeited, cancelled, or surrendered licenses:

9 “The suspension, expiration, or forfeiture by operation of law of a license issued by a
10 board in the department, or its suspension, forfeiture, or cancellation by order of the
11 board or by order of a court of law, or its surrender without the written consent of the
12 board, shall not, during any period in which it may be renewed, restored, reissued, or
13 reinstated, deprive the board of its authority to institute or continue a disciplinary
proceeding against the licensee upon any ground provided by law or to enter an order
suspending or revoking the license or otherwise taking disciplinary action against the
licensee on any such ground.”

14 7. Section 2761 of the Code states:

15 “The board may take disciplinary action against a certified or licensed
nurse or deny an application for a certificate or license for any of the following:

16 (a) Unprofessional conduct, which includes, but is not limited to, the
17 following:

18 ...

19 (4) Denial of licensure, revocation, suspension, restriction, or any other
disciplinary action against a health care professional license or certificate by another
20 state or territory of the United States, by any other government agency, or by another
California health care professional licensing board. A certified copy of the decision
21 or judgment shall be conclusive evidence of that action.”

22 8. Section 2762 of the Code states:

23 “In addition to other acts constituting unprofessional conduct within the
24 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
person licensed under this chapter to do any of the following:

25 (a) Obtain or possess in violation of law, or prescribe, or except as
26 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
himself or herself, or furnish or administer to another, any controlled substance as
27 defined in Division 10 (commencing with Section 11000) of the Health and Safety
Code or any dangerous drug or dangerous device as defined in Section 4022.

28 ...

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Disciplinary Action by the Board of Nurse Examiners for the State of Texas)

10. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4) of the Code in that on or about February 11, 2003, Respondent's permanent certificate to practice professional nursing was revoked by the Board of Nurse Examiners for the State of Texas ("Texas Board"). The circumstances underlying the disciplinary action by the Texas Board is, as follows:

11. On or about November 20, 2002, the Texas Board filed formal charges against Respondent, as follows:

a. On or about March 17, 2002, while employed as a traveling nurse with Cross County Staffing, Boca Raton, Florida, and on location at Memorial Hermann Hospital in Houston, Texas, Respondent misappropriated Morphine belonging to the facility and patients thereof, as follows:

Date/Time	Pixis Withdrawal	Physician's Order	Medication, Administration Record (MAR)	Nurse's Notes	Wastage
3/17/02 0944	Morphine 10mg	MS04 1-3mg PRN Pain IV	0930-3mg	NO	NO
3/17/02 1719	Morphine 10mg	MS04 1-3mg PRN Pain IV	NO	NO	NO
3/17/02 0944	Morphine 4mg	Morphine INJ 2-4mg IV Q 3 HRS PRN Pain	0930-2mg	NO	NO
3/17/02 1346	Morphine 4mg	Patient discharged on 3/17/02 @ 1315	1200-2mg	1345-No dosage indicated	NO

b. On or about June 6, 2002, while employed with American Mobile Health Care, San Diego, California, and on location at St. Luke's Episcopal Hospital in Houston, Texas, Respondent withdrew Morphine Sulfate from the Pyxis for patients but failed to accurately document the administration of Morphine Sulfate in the patients' Medication Administration Record ("MAR"), Nurses Notes, or both, as follows:

Date/Time	Pyxis Withdrawal	Physician's Order	Medication, Administration Record (MAR)	Nurse's Notes	Wastage
6/6/02 0015	MS04 10mg	MS04 6-10mg IV Q2 HRS PRN Pain	NO	0015-10mg	NO
6/6/02 0210	MS04 10mg	MS04 6-10mg IV Q2 HRS PRN Pain	NO	0230-5mg	5mg Wasted with witness
6/6/02 0403	MS04 10mg	MS04 6-10mg IV Q2 HRS PRN Pain	NO	0410-2mg	8mg Wasted with witness
6/6/02 0550	MS04 10mg	MS04 6-10mg IV Q2 HRS PRN Pain	NO	0600-4mg	6mg Wasted with witness
6/6/02 0650	MS04 10mg	MS04 6-10mg IV Q2 HRS PRN Pain	NO	0700-2mg	8mg Wasted with witness
6/6/02 0016	MS04 10mg	Morphine Sulfate 1-5mg Q 1 HR PRN Pain	0000-5mg	0000-5mg	7mg Wasted with witness
6/6/02 0240	MS04 10mg	Morphine Sulfate 1-5mg Q 1 HR PRN Pain	NO	NO	8mg Wasted with witness
6/6/02 0329	MS04 10mg	Morphine Sulfate 1-5mg Q 1 HR PRN Pain	0400-5mg	0400-5mg	NO

c. On or about June 6, 2002, while employed with American Mobile Health Care, San Diego, California, and on location at St. Luke's Episcopal Hospital in Houston, Texas, Respondent withdrew Morphine Sulfate from the Pyxis for patients but failed to follow policy and procedures in place for the wastage of Morphine Sulfate, as follows:

Date/Time	Pyxis Withdrawal	Physician's Order	Medication, Administration Record (MAR)	Nurse's Notes	Wastage
6/6/02 0015	MS04 10mg	MS04 6-10mg IV Q 2 HRS PRN Pain	NO	0015-10mg	NO
6/6/02 0329	MS04 10mg	Morphine Sulfate 1- 5mg Q 1 HR PRN Pain	0400-5mg	0400-5mg	NO

12. Under section 2761, subdivision (a)(4) of the Code, the Texas Board's disciplinary action against Respondent for diverting prescription drugs is grounds for the California Board to take disciplinary action against her license.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

13. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the Code in that Respondent committed unprofessional conduct for misappropriated and falsified hospital and patient records in order to obtain Morphine and Morphine Sulfate. The conduct is described in more particularity in paragraphs 10 through 12, inclusive, above and herein incorporated by reference.

THIRD CAUSE FOR DISCIPLINE

(Drug Related Transgressions)

14. Respondent is subject to disciplinary action under section 2762, subdivisions (a) and (e) of the Code in that on several occasions, Respondent misappropriated Morphine and Morphine Sulfate, failing to accurately document administration and wastage of the drug in patient and hospital records. The conduct is described in more particularity in paragraphs 10 through 12, inclusive, above and herein incorporated by reference.

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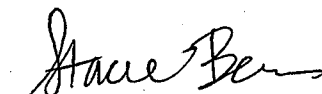
PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 589388, issued to Kara M. Roberts;
2. Ordering Kara M. Roberts to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

12/30/2011

for 
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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